745

SUPREME COURT OF THE UNITED STATES.

No. 132.

THE UNITED STATES, APP'TS,

vs.

AUGUSTIN MACHADO ET AL.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimants	3	1
Deposition of Abel Stearns	5	2
Espediente	7	3
Map	8	3
Translation of espediente	15	7
Espediente	23	10
Translation of espediente	31	14
Deposition of Juan Ballona	36	16
" J. J. Baldes	37	17
Possession	40	18
Translation of petition of judicial possession	51	23
" act of juridical possession	53	23
Opinion of commissioners	59	26
Decree of "	60	26
Certificate of secretary	62	27
" " clerk dist. court	63	28
Proceedings in dist. court	64	28
Notice of appeal	66	29
Petition for review	67	29
Answer	70	31
Decree	71	31
Appeal granted	72	32
Clerk's certificate	73	32

GIDEON, Print.

Transcript of the proceedings in case No. 369—*Augustin Machado, claimant, vs. The United States, defendant—for the place named "Ballona."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this second day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The Petition of Augustin Machado et al., for the place named "Ballona," was presented, and ordered to be filed and docketed with No. 369, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Nov'r 11th*, 1852.

In case No. 369, Augustin Machado et al., for the place named "Ballona," the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H.H, Nos. 1, 2, 3, and translations thereof marked annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Oct.* 14, 1853.

Case No. 369 was called, submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *February* 14, 1854.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board confirming the claim.

(Vide page 61 of this Transcript.)

Petition.

To the honorable the United States Commissioners for the settlement of California land claims:

Your petitioners, Augustin and Ygnacio Machado, Felipe and Tomas Talamantes, residents of the county of Los Angeles, and State of California, respectfully represent, that they claim as joint owners, in fee

simple, the ranch called "Ballona," which was granted to them (after a peaceable and undisputed possession by them of 18 or 19 years under a provisional concession) by Juan B. Alvarado, as governor of California, and as such possessed of ample powers in the premises, by deed of grant, dated November 27th, A. D. 1839, and made to them jointly, and in fee simple; said ranch being bounded and described as follows:

Beginning at a cottonwood tree, at considerable distance from the house on said ranch, which is marked with hatchet cuts; thence running east 7,835 varas to a little fall bridge; thence south 9,800 varas to the mouth of a creek ("estero"); thence west along the sea-coast 7,300 varas to the deep gulleys ("barrancas"); thence northerly 7,800 varas to the place of beginning, containing one league of grazing land, more or less, and situate in the county and State aforesaid.

Your petitioners have held peaceable possession from the date of said grant to the present, and have fulfilled all the conditions of said and of concession.

There is no interfering claim. It has never been surveyed by the United States surveyor for California. They will rely upon the following documentary evidence to support their claim before your honorable board:

1st. A fac-simile copy of the espediente and original grant, marked "A."

2d. Copy of judicial possession, executed by the proper municipal authority to them the 31st March, 1839, marked "B."

These papers are accompanied with true translations, marked 1, 2, and are all filed with the secretary of your honorable board. They will rely upon such further documentary evidence and parol testimony as may serve to support their claim; and they ask that you will be pleased of your superior legal intelligence and sense of justice to confirm them in the property and possession of said claim; and as in duty bound, &c.

AUGUSTIN & IGNACIO MACHADO,
FELIPE & TOMAS TALAMANTES,
By SCOTT & GRANGER, *Attorneys.*

Oct. 2d, 1852.

Filed in office, Oct. 2d, 1852.

GEO. FISHER, *Secretary.*

LOS ANGELES, *Nov'r* 11, 1852.

On this day, before Commissioner Hiland Hall, came Abel Stearns, a witness in behalf of the claimants, Augustin Machado et al., petition No. 369, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns, my age is fifty-four years, I reside in Los Angeles, and have resided in California over twenty-three years.

Biblioteca del Museo

fter

A paper shown me, purporting to be a grant to Augustin and Ignacio Machado, Felipe and Tomas Talamantes, dated 27th Nov., 1839, to which is attached a testimonial of judicial possession, given in December, 1839, and also other proceedings in regard to the land. I am acquainted with the handwriting and signatures of Juan B. Alvarado, Manuel Jimeno, Narcisio Botello, Manuel Domingues, Ignacio Coronel, Augustin Olivera, Vicente Sanchez, Felipe Lugo, Perfecto Hugo Reid, Bernardino Lopez, and Guillermo Cota. The signatures of the said several persons appearing on said paper I believe to be genuine.

The said persons were at the times specified in said papers acting in the official capacities therein mentioned.

Said paper is hereto annexed, and marked H.H, No. 1.

A paper is also shown me purporting to be testimony in relation to boundaries of land, taken in Jan'y, 1840.

The signatures of Felipe Lugo, Ignacio Coronel, Balilio Valdez, Francisco J. Alvarado, Juan Balestaros, and Felipe Castillo, wherever they appear on said paper, I believe to be genuine.

I believe the paper to be a genuine official document; it is hereto annexed, and marked H.H, No. 2. I am acquainted with the signatures of the said several persons.

A paper is also shown me purporting to be a certificate of an alcalde, dated January, 1840. The signature of Felipe Lugo on said paper I believe to be genuine. It is hereto annexed, and marked H.H, No. 3.

I am acquainted with the rancho called "Ballona;" it is situated about four leagues from this place in an easterly direction; I have known the land ever since 1832. The present claimants were then all living on the land; they had two or three houses, had land under cultivation, and had stocks of cattle and horses; their possession has continued in the same manner from that time to the present.

Ignacio Machado has sometimes resided in this city.

In answer to questions by the associate law agent, the witness says, he thinks the extent of the rancho is from two to three square leagues, and that it is surrounded entirely by other ranchos.

ABEL STEARNS.

Sworn and subscribed before me,

HILAND HALL, *Comm'r.*

Filed in office, Nov'r 11th, 1852.

GEO. FISHER, *Secretary.*

[1 S. D. K.] (1839.)

Espediente promovido por los Ciudadanos Agustin é Ignacio Machado, Felipe y Tomas Talamantes, en solicitud de un parage nombrado "Ballona."

[*For map see original, page* 8.]

[3 S. D. K.] S'or Prefecto Int'o de esto Distrito:

Agustin Machado, Felipe Telemantes, Ignacio Machado y Tomas Telemantes, ante V. s'a con el debido respeto, y en los terminos mas conformes á derecho nos presentamos y dicimos: Que hace el espacio de diez y ocho años, y nueve años, que proviscionalmente poseemos con nuestros bienes de campo, casas y de mas intereses el parage nombrado Paso de las Carretas, pero conocido mas generalmente por la Ballona; y deseando asegurar del mejor modo posible la subsistencia de nuestras crecidas familias, como por ql. no hay quien mejor d'ro representa, suplicamos á V. S. se sirva concedernos en propiedad el [4 S. D. K.] espresado parage, siendo el que se demuestra en el diceño que debidamente acompañamos para la mayor inteligencia.

Por tanto, á V. s'a rendidamente pedimos se digno acceder á esta nuestra solicitud, esperando de su eficacia, y acreditada bondad, nos conceda la gracia que imploramos pr. asi de justicia. Juramos lo necesario, &c. Suplicandole igualmente admita esta en papel comun, por no haber de ningun sello en la ciudad.

Angeles, Sept're 19, de 1839.

(No sabemos firmar.)

ANGELES, *S'bre* 20, *de* 1839.

El ilustro ayuntamiento informe sobre el contenido en esta instancia, c'n citacion de colindantes.

TAPIA.

ANGELES, *Sept'bre* 28, *de* 1839.

Dado cuenta al il'tro ayuntamiento de esta ciudad, en sesion de hoy, con este espediente, acordo pasará á la comision de terrenos valdios [5 S. D. K.] para ql. preveia la citacion de colindantes, producen el informe ql. se pide por el s'or prefecto.

ANTONIO MACHADO.
NARCISO BOTELLO, *S'rio.*

Ilustro ayuntamiento: La comiscion de terrenos valdios á reconocido el terreno ql. se refiere en el presente espediente y dice, que solo esta ocupado con bienes de ganado mayor, y caballar y ganado menor, viñas, y casas, y siembras todo perteneciente á los solicitantes quienes lo poseen hace el termino, ql. ellos mismos espresan en tal virtud la concesion es de opinion ql. se les conceda la posecion respectiva de propiedad por no encontrar obstaculo alguno, y esto es de informe ql. da á virtud del decreto marginal.

Ang'l, Octubre 12, de 1839.

JUAN C. VEJAR.
JANUANA ABILA.

[6 S. D. K.] ANGELES, *Oct'e* 12, *de* 1839.

Dada cuenta al ill'tro ayuntamiento con el dictamen ql. antecede, acordá se conseda el informe, que pide el s. prefecto en favor de los solicitantes.

ANTONIO MACHADO, *P'te Int'o.*
IGNACIO CORONEL, *S'rio.*

ANGELES, *Octubre* 15, *de* 1839.

Vuelva el presente espediente al il'tro ayuntamiento de esta ciudad, con el fin de ql. esprese se aprobo ó no el informe de la comiscion respectivo, admitiendose ql. esta prefectura no ha pedido informe, en favor de los solicitantes como lo espresa en su anterior decreto.

TAPIA.
NARCESO BOTELLO, *S'rio.*

ANGELES, *Octubre* 19, *de* 1839.

[7 S. D. K.] El ilustro ayuntamiento, en secion de hoy, aprobó el dictamen de la comision estampado en la anterior solicitud, con lo que queda subsomada el equivoco que se padece, en el decreto de 12 del presente.

ANTONIO MACHADO, *P'te Int'o.*
IG'O CORONEL, *S'rio.*

Ex'mo S'or Gobernador:

La prefectura de este distrito impuesta de los informes que anteceden cree que es de accederse á las pretenciones de los solicitantes, se asi fuere del superior agrado de V. E., quienes tienen las calidades necesarias para ser atendidas y poseedores de muchos años, del parage que mencionan.

TIBURCIO TAPIA.
NARCISO BOTELLO, *S'rio.*

[8 S. D. K.] Monterey, Noviembre 27, de 1839.

Vista la peticion con que da principio este espediente el informe del s'or prefecto del segundo distrito y el del y el del I. yuntamiento de la ciudad de los Angeles, con todo lo demas que se tuvo presente y de ver convino de conformidad con las leyes y reglamentos de la materia, les concede á los C'nos Agustin y Ignacio Machado, Felipe y Tomas Talamantes, el terreno conocido con el nombre de Ballona, colindante al O. con el rancho del C'no Policarpio y Migueras, al N. con el del C'no Alaniz, el P. con el del C'no A. Ignacio Abila, y al sur con el del S'or José Sepulvida, y se sugeterán á lo que resultaré sobre terminos de la municipalidad de la ciudad de los Angeles, librese el correspondiente despacho, tomese razon en el libro respectivo lo mismo que [9 S. D. K.] da en la prefectura del segundo distrito. El S'or Don Juan B. Alvarado, gobernador constitucional del departamento de los Californias, asi lo mandó, decretó y firmo, de que doy fée.

ALVARADO.
MAN'L JIMENO, *S'crio.*

[10 S. D. K.] Juan B. Alvarado, Gobernador Constitucionel del Departamento de los Californias.

Por cuanto los ciudadanos Agustin y Ignacio Machado, Felipe y Tomas Telemantes, han pretendido para sus beneficios personales y el de sus familias el parage conocido con el nombre de Ballona, colindante al oriente con el rancho del C. Policarpio Higuera, al norte con el del S'or Alanis, al poniente con el del ciud'do Antonio Ignacio Abila, y al sur con el del S'or José Sepulvida, practicadas previamente las diligencias y averiguaciones consernientes, segun lo dispuesto por leyes y reglamentes; usando de las facultades que me sus conferidas á nombre de la nacion Mejicana, he venido en concerderle el terreno mencionado esclarandole la propiedad de el, por las presentes letras, sugetandose á la aprobacion de la ex'ma junta departamental, y á las condiciones siguientes:

1o. Podra cercarlo sin prejudicar las travesias caminos y servidumbres, lo disfrutará libre y esclusivamente, destinandolo al uso ó cultivo que mas les acomode pero dentro de un año fabricará casa y estan habitada.

2o. Solicitaran del juez respectivo que les de la posecion juridica en virtud de este despacho por el cual se demarcaran los linderos, en cuyos limites pondrá á mas de las mojoneras algunos arboles frutales, ó silvestres de alguna utilidad.

3o. El terreno de que se hace donacion es de la estencion que demuestra el diceño que como en el espediente. El juez que diere la posecion lo hara medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

4o. Si sugetaran á lo que resultare sobre terrenos de la municipalidad de la ciudad de Los Angeles.

5o. Si contraviniere á estas condiciones perderá su derecho al terreno, y será denunciable por otro.

En consecuencia mando que teniendose por firme, y valedero este titulo se tome razon, de el en el libro respectivo, y se entregue á los interesados para su resguardo y demas fines.

Dado en Monterey, a veinte y siete de Noviembre, de mil ochocientos treinta y nuebe.

JUAN B. ALVARADO.
MANUEL JIMENO, *S'crio.*

Si tomo razon en el libro respectivo á fs. 13.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the eleven preceding and hereunto annexed pages of tracing paper, numbered from one to eleven inclusive, and each of which is verified

by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., the 21st day of Sept'bre, 1852.

[ ] SAMUEL D. KING,
Surveyor General Calf'a.

Filed in office, Oct'r 2nd, 1852.

GEO. FISHER, *Sec'ry.*

(1839.)

Espediente caused by the citizens Augustin and Ygnacio Machado, Felipe and Tomas Talamantes, in their petition for a place called Ballona.

(184.)

Sn. Prefect ad interim of this District:

Agustin Machado, Felipe Talamantes, Ignacio Machado, and Tomas Talamantes, before Y. H. with all due respect, and in terms most conformable to law, present ourselves and say: That it is about the space of 18 or 19 years that we have provisionally occupied with our grazing stock, houses, and other interests, the place called the "Pass of the Wagons," (Paso de los Carretas,) but more generally known by the name of the "Ballona;" and wishing to secure, in the best possible mode, the maintenance of our increased families, as there is no one who can better represent our rights, we beseech of Y. H. to be pleased to grant us, in right of property, the said place, being that which the duly accompanying diagram represents more intelligently; wherefore, of Y. H. we humbly ask to deign to grant this our petition, expressing that of your efficient and well-known goodness you will concede the favor which we implore, for thus it is justice; we swear if necessary, &c. We likewise pray you will admit this on common paper, for want of the sealed in this city.

Angeles, Sept. 19, 1839.

We know not how to write (or sign it.)

[Endorsed on the same:]

ANGELES, *Sept.* 20, 1839.

Inform the H. city council of what is contained in the petition, with citation to the adjoining land claimants.

TAPIA.

ANGELES, 28, 1839.

Account of this espediente having been given to the illustrious city council, of this city, in session of to-day, they resolved to commit it to the committee on unoccupied land, that, upon previous citation of the adjoining land claimants, they may produce the report which is asked by the señor prefect.

ANTONIO MACHADO.
NARCISO BOTELLO, *Sec'y.*

Illustrious City Council:

The committee on unoccupied lands to examine the land referred to in the present espediente, say: That it alone is occupied with a stock of large cattle and horses, and small cattle, vineyards and houses, and sowing grounds, all pertaining to the petitioners, who have had possession of it for the period that they themselves express, in virtue of which the committee are of the opinion that the respective possession of property may be granted, for they find no obstacle; and this is the report which they make in virtue of the marginal decree.

Angeles, October 12, 1839.

JUAN C. VIGAR.
JANUARIO ABILA.

ANGELES, *Dec.* 12*th*, 1839.

Account of the *proceeding* report having been given to the illustrious city council, it is agreed that the report be granted, which the s'r prefect asks in favor of the petitioners.

ANTONIO MACHADO,
Pres'te ad interim.
IGNACIO CORONEL, *Sec'y.*

ANGELES, *October* 15*th*, 1839.

Return the present espediente to the illustrious city council, for the purpose that they may express whether or not the approve of the report of the respective committee, suggesting that the prefecturate has not asked a report in favor of the petitioners, as it is expressed in the former decree.

TAPIA.
NARCISSO BOTELLO,
Secretary.

ANGELES, *October* 19*th*, 1839.

The illustrious city council, in session of to-day, approve of the decision (or report) of the committee stamped on the former petition; and, with this, the mistake remains corrected, which was made in the decree of the 12th inst.

ANTONIO MACHADO,
Presd't ad interim.
YGN'O CORONEL, *Sec'y.*

M't E. S'r Governor:

The prefecturate of this district, having been advised of the *proceeding* reports, believes that it is well to grant the solicitations of petitioners, if thus it be of the superior pleasure of Y. E., who have the qualifications necessary to be attended to, and being possessors for many years of the place which they mention.

TIBURCIO TAPIA.
NARCISIO BOTELLO, *Sec.*

MONTEREY, *Nov. 27th*, 1839.

Having seen the petition with which this espediente commences, the report of the sr. prefect of the 2nd district, and that of the illustrious city council of the city of Los Angeles, with all the further steps which the present has taken, and that it all agrees in conformity with the laws and regulations on the subject, I hereby grant to the citizens Agustin and Ignacio Machado, Felipe and Tomas Talamantes, the land known by the name of the Ballona, bounded on the west by the ranch of the citizen Policapio Higuera, on the north by that of the citizen A. Ignacio Abila, and on the south by that of the Sr. José Sepulveda, and they shall be subject to what may result concerning the bounds of the municipality of the city of Los Angeles, issue the corresponding despatch, take record in the proper book, the same in the book in the prefecturate of the second district.

The Sr. Dn. Juan B. Alvarado, governor constitutionally of the Department of the Californias; thus I commanded, decreed, and signed it, which I attest.

ALVARADO.
MANUEL JIMENO, *Sec'y*.

Seal of the First Class, Six Dollars.

Qualified provisionally for the maritime custom-house, for the years 1839 and 1840.

ALVARADO. ANTONIO MARIA OSIO.

Juan B. Alvarado, Constitutional Governor of the department of the Californias:

Whereas the Sirs Augustin and Ignacio Machado, Felipe and Tomas Talamantes, have solicited for their personal benefit, and that of their families, the land known by the name of the "Ballona," bordering at the east with Mr. Policapio Higuera, at the north with Mr. Alimis, at the west with Mr. Antonio Ignacio Abila, and at the south with Mr. Sepulveda, they having previously performed the proceedings and necessary inquiries, according to what is agreeable to the laws and regulations; exercising the powers that are conferred upon me in name of the Mexican nation, I have resolved to grant them the land above mentioned, under the conditions following:

1st. That they shall be subject to the rule which ought to be adopted with respect to the determining of the boundary in the lands of the city of Los Angeles, lest it should result to be comprehended in them.

2nd. They may enclose it without prejudice to the traversing roads and servitudes; they shall farm it freely and exclusively, destining it to that use or cultivation that may most serve them.

3. The respective judge shall cause the land to be measured in conformity with the regulations, and shall declare the possession of it to the interested parties.

4. If the land shall not be comprehended in those which the first article suggests, the parties interested may repair to the government for a confirmation of their property.

Therefore I order that these be taken in the proper book, and be delivered to the parties interested for their protection and the further ends.

Given at Monterey, the twenty-seventh of November, one thousand eight hundred and thirty-nine.

JUAN B. ALVARADO.
MANUEL JIMENO,
Secretary of the Despatch.

Let account of this despatch be preserved in the book of entries concerning the adjudication of public lands, at page 13th.

JIMENO.

His excellency the governor has ordered that account of this despatch be taken in the prefecturate of the 2nd district.

JIMENO.

ANGELES, *December 9th*, 1839.

Let account be taken of this title in the proper book of this prefecturate, at page 1st, by virtue of which the parties interested may repair to one of the justices of the peace of this city soliciting the corresponding possession.

TAPIA.
NARCISSO BOTELLO, *Secretary.*

Filed in office, Oct. 2nd, 1852.

GEO. FISHER, *Sec'y.*

Espediente á favour de los S'ores Machados y Talamantes.—Año de 1840.

(H.H, No. 2.)

S'or Juez 1o de Paz:

Agustin y Ignacio Machado, Felipe y Tomas Talamantes, ante V. como mas haya lugar en d'ro decimos: Que conveniendo a muestros interesos personales que el gobierno superior aclara ciertas dados sobre la posecion de nuestro rancho, pedimos tenga á bien hacer comparacer en este juzgado de su encargo á los ciudadanos Ricardo Bejar, Policarpio Yguera, Franc'o J. Alvarado, Te. Jul'n Baldez y Juan Ballesto, la cuales si les interrogana al tenor:

1a. Que digan hasta donde comprenden los terrenos del rancho llamado la Ballona.

2o. Que tiempo hace q'l terremos este sitio ocupado y se hemos metido los bienes necesarios segun la ordenanza.

3a. Que digan si al tiempo de medir el terreno en la posecion juridica q'l se nos dio el dia treinta y uno del pp'l se ocaso aumentamos

mas sitio ó diminuimo. Practicadas estas diligencias, de vuelvase nos el espédiente original, para los usos que nuestro d'ro convenga.

Por tanto, á V. suplicamos haga como pedimos en lo que recibiremos gracia; juramos, &c. Sirviendose admiter esta en papel comun, por no haber del sellado respectivo.

ANGELES, *Enero* 10, *de* 1840.

Y por no saba firmar los interesados, Agustin, Ignacio, Felipe y Tomas, lo hiso á su ruego.

AGUSTIN VALVERDE.

ANGELES, *Enero* 15, *de* 1840.

Por presentado y admitido, en cuanto halla lugar tora d'ro citese á las personas que nombró la precedente instancia y juramentados enforma, tome les declaracion con arreglo al interrogatorio que antecede. El C. Felipe Lugo, juez 1a. de paz de 1a. instancia, mandé y firmé.

FELIPE LUGO.

Ass'a: IGN'O CORONEL,
Ass'a: BASILIO VALDES.

En el acto siendo presente el C. Ricardo Vejar, en su persona que doy fée y conozco, le recivé, juramento que otorgo segun d'ro, bajo el cual ofrecio decir verdad en lo que supiere y fuere preguntado, y siendolo primero de las generales dijo, llamase como queda, d'ho de treinta y tres años de edad, casado, C. A. R., campistro, natural de San Diego, y vecino de esta demarcacion, y con arreglo á las preguntas del anterior interrogativo, responde, á la 1a: Que por donde sale el sol des de Pasa de la Carrera, toda la cuchilla hasta la boca del estero, por el sur des de la misma boca del estero por la playa, hasta los barrancos, y por el poniente des de los barrancos por toda la mesa hasta el alamo, y por el norte des de el alamo, hasta el mismo Pasa de la Carrera, subiendo arriba de la loma; á la 2a: Que diez y seiz años ha q'l lo posien, y lo ha visto siempre cabierto de ganado, con casa y corral; á la 3a: Que ignora el con tenido de la pregunta. Que lo dicho es la verdad á cargo de su juramento en que se afirmo y ratifico sur tenir que añodir ó quetan des de que le fue esta su declaracion, y no firmo por no saber lo hise; yo con los de un asistencia, segun d'ro.

FELIPE LUGO.

Tachado, donde vale, no vale.

Ass'a: IGNACIO CORONEL,
Ass'a: BASILIO BALDES.

En el acto siendo presente el C. Francisco Javier Alvarado, en su persona, que doy fé y conosco, le recibi, juramento que hiso en todo forma de derecho bajo, el cual ofrecio decir verdaden lo que supiere y fuere preguntado y siendolo de las generales dijo, llamase como quedo dicho de treinta y tres años de edad, casado, C. A. R., labrador, natural y vecino de esta ciudad, y con respeto á los preguntas del interrogativo

responde; á la 1a: Que des de el Paso de la Carrera, para arriba de la loma alta, par toda la orilla de las lomas hasta la boca del estero, que es por donde el sol sale, y por el sur hasta la misma boca del estero, hasta los barrancos, des de los barrancos, hasta el alamo; por el poniente y por el norte, des de el alamo, hasta el Paso de la Carrera, subiendo á la loma; á la 2a: Que segun se acuerde sevair como unos diez y ocho años, oyo decir su este sitio de las Ballonas de los Machados, y que sabe lo han tenido con bienes suficientes; á la 3a: Que segun oyó cuando fue á ver dar la posecion, primero reconocio S. Antonio Ignacio Abila, como colindante por el lado del oriente, de que lo tomaban terreno de su propiedad los Machados lo manifestaron que aun disminunan de la posecion que temain antes mas el juez, para mediar insistió por varia, beces pedir los documentos al S. A. Ignacio Abila, y como no presento noda mando el alcalde, Don Manuel Dominguez, se siguerean las medidas; lo mismo sucedio por el la do del poniente con el colindante, Don Franc'o Sepulvida, pero amas de que tampoco presento documentos, (parece,) que los Machados quitaron cosa de siete cientos varas que quedaron á favor de Sepulvida, señalando este mismo sus antiguos linderos. Que lo dicho es la verdad á cargo de su juramento, sin tener que añadir ó quitar, en que se afirmo y ratifico leyando el, su declaracion firmando conmigo, y los de mi asistencia segun d'ro. Tachado, ponien, (no vale.)

FELIPE LUGO,
FRANCISCO S. ALVARADO.

Ass'a: Ign'o Coronel,
Ass'a: Basilio Baldes.

En seguida siendo presente el C. Policarpio Higuera, en su persona, que doy fée y conosco, lo recivi, juramento que ortorgo en toda forma de derecho bajo, el cual ofrecio decir verdad en lo que supiere y fuere preguntado y siendolo de las generales, dijo; llamase como queda d'ho, de cuarenta años de edad, casado, C. A. R., campisto, natural y vecino de esta ciudad y su demarcacion; con respecto á las preguntos del interrogativo, responde, á la 1a: Que desde el Paso de la Carrera, por arriba de la loma hasta la boca del estero, que espor el oriente y por el sur desde la boca del estero hasta los barrancos, de los barrancos hasta el primeo alamo, por el poniente, y por el norte desde el alamo hasta la loma alta. A la 2o: Que seran cosa de diez y nueve años ha visto que son poseedores los Machados, del sitio nombrado Ballona, y siempre ha visto poblado de bienes, con fincas y labores. A la 3o: Que segun conoce el terreno por ser colindante para la parte de Guacho se quitaron unos cuantos varas que es por el oriente, y por el poniente, se quitaron mas de quinientos varas, ql. lo dicho es la verdad á cargo de su juramento en que se afirmo y ratificó, sin tener que anadir ni quitar, leida que le fue esta, su declaracion y no firmé, por no saber lo hise, con los de mi asistencia, segun d'ho.

FELIPE LUGO.

As'a: Ignacio Coronel,
As'a: Basilio Valdez.

Incontinentes siendo presente el C. Juan Ballastero, en su persona, que doy fée y conosco, le recibi, juramento que otorgó segun dro. bajo, en cual ofrecio decir verdad en lo que supiere y fuere preguntado, y siendolo primero los generales, dijo, llamase como queda d'ho de cincuenta y seis años, casado, C. A. R., campista, natural de S. Barbara y vecino de esta ciudad, y con respecto al interrogativo, responde, á la 1a: Que desde el Paso de la Carrera hasta desem boca el estero por el lado del orient, y por el sur desde la misma boca del estero por la playa hasta los barrancos, por el poniente desde los barrancos, hasta donde esta un alamo, y por el norte desde el primeo alamo hasta el Paso de la Carrera. A la 2a: Que diez y nueve años ha que los conoce poseedores del terreno nombrado lo Ballona, y siempre á estado ocupado, con fincas y bienes de campo. A la 3a: Que ignora el contenido de la pregunta, esta dijo ser la verdad á cargo, de su juramento en que se afirmo y certifico sin tener que añadir y quitar, leida le fué esta su declaracion y firmó, con migo y los de asistencia, segun d'ro.

FELIPE LUGO,
JUAN BALLESTEROS.

As'a: Ignacio Coronel,
As'a: Felipe Carrillo.

En la f'ha y siendo presente José Julian Baldez, en su persona, que doy fée conosco, y le recibi, juramonto que hiso en toda forma de dro. bajo, el cual ofrecio decir verdad en lo que supiere y fuere preguntado, y siendolo primero de las generales, dijo, llamase como queda d'ho de treinta años de edad, casado, C. A. R., campista, natural y vecino de esta ciudad, y con respecto á las preguntas del interrogativo, responde, á la 1a: Que lindando con S. Policarpio Higuera, desde el Paso de la Carrera, por la orilla de Huocho hasta la boca del estero por el oriente, y por el sur desde la boca hasta los barrancos, por el poniente dede los barrancos, hasta los alamos, y por el norte hasta el mismo Paso de las Carreras arriba de las lomas. A la 2a: Que desde quetiene de razon ha visto ocupado el terreno nombrado los Ballonas, por los S. S. Machados, con habitaciones, corrales y bienes de campo. A la 3a: Que ignora el contenido de la pregunta, esto dijo su la verdad á cargo de su juramento en que se afirmo y ratifico, leida que le fue esta, su declaracion y no firmó, por no saber, lo hise yo con los de mi asistencia, segun derecho.

FELIPE LUGO.

As'a: Ignacio Coronel,
As'a: Basilio Valdez.

Angeles, *Eno.* 15, *de* 1840.

Estando evacuados las citas ql. resultan en el anterior interrogativo, y practicadas las diligencias respectivos, devuelvause originales á los interesados Machados y Talamantes, para los usos que le convengan; asi yo Felipe Lugo, juez 1o de paz y de 1o instancia, mandé y firmé, con los testigos de asistencia, segun d'ro.

FELIPE LUGO.

As'a: Ignacio Coronel,
As'a: Felipe Castillo.

Filed in office, Nov. 11th, 1852. GEO. FISHER, *Sec'y.*

Espediente on behalf of Messrs. Machado and Talamantes.— Year 1840.

To the first Justice of the Peace:

Agustin and Ygnacio Machado, Felipe and Tomas Talamantes, state to you, as best may be consistent with law, that it being subservient to our personal interests that the superior government explain certain doubts about the possession of our rancho, we request that you will see fit to cause to appear in this justice's court, in your charge, the citizens Ricardo Bejar, Solicarpio Iguera, Fran'co J. Alvarado, T. Ant. Baldes, and Juan Ballestras, who will be interrogated to the tenor.

1st. That they say up to where the lands of the rancho called La Ballona are comprised.

2nd. How long time it is since we have occupied this sitio, and whether we have put thereon the necessary stock according to ordinance.

3rd. That they say, whether at the time of measuring the land under the juridical possession, given us on 31st last, we perhaps added more land or diminished it.

This action being taken, you will return us the espediente in original, for purposes that may suit each of us.

Wherefore we pray that you will do as requested by us, whereby we shall receive favor; we swear, &c.

You will be pleased to admit this on common paper, as there is no stamped paper to be had.

And as the interested parties, Augustin, Ygnacio, Felipe and Tomas, do not know how to sign, I do so on their request.

AGUSTIN VALVERDE.

ANGELES, *Jan'y 15th*, 1840.

It having been presented and admitted, in as far as is consistent with law, let the persons named in the foregoing instance be summoned, and being formally sworn, let them make declaration in accordance with the foregoing interrogatory.

Felipe Lugo, 1st justice of the peace and of the 1st instance, so ordered and subscribed.

FELIPE LUGO.

Assis.: YGN. CORONEL,
Assis.: BACILIO BALDEZ.

In consequence, Ricardo Vejar being present in person, and whom I attest that I know, was sworn according to law, on which oath he promised to tell the truth about what he might know and be questioned about; and being first generally questioned, he said that his name is as above stated; that he is 33 years of age; married; a Roman Apostolic Catholic; farmer; native of San Diego, and resident of this district; and in accordance with the foregoing interrogation, he answered:

To the 1st. That about east, (literally where the sun rises,) from el Paso de la Carreta, the whole opening (include) to the mouth of the estuary; southerly, from the same mouth of the estuary along the shore of the hollows; and westerly, from the hollows along all the table-land to the elm tree; and northerly, from the elm tree to the same Paso de la Carreta, ascending above the hill.

To the 2nd. That it is 16 years since they have possessed it, and he has always seen it covered with cattle, house, and corral.

To the 3rd. That he is ignorant of the tenor of this question; that what he has said is the truth on the oath he has taken, which he affirmed and ratified without adding or leaving anything. This declaration being read to him, and he did not sign, as he did not know how, I, together with my assistants; and so according to law.

Erasure of "donde sale" is not valid.

FELIPE LUGO.

Assis.: IGNACIO CORONEL,
BACILIO VALDES.

In continuation, the citizen Francisco Savier Alvarado, whom I attest that I know, being previously present, he was sworn and taken in formal oath according to law, on which oath he promised to tell the truth about what he might know and be interrogated about—*what he might know and be interrogated about;* and being questioned generally, he said his name is as above stated; that he is 33 years of age; married; a Roman Apostolic Catholic; native and resident of this city. And respecting the interrogatories, he answered:

To the 1st. That from el Paso de la Carreta, far above the high hill, along all the edge of the hills to the mouth of the estuary, which is to east, (where the sun rises;) and southerly, from the same mouth of the estuary to the hollows; from the hollows to the elm tree; westerly and northerly from the elm tree to el Paso de la Carreta, ascending to the hill.

To the 2nd. That, according to his recollection, there will be about 18 years since he heard say this sitio de la Ballona to belong to the Machado, and that he knows they had held it with sufficient stock.

To the 3rd. That according to what he heard, when he went to see the possession be given Antonio Ygnacio Avila, as bordering land-owner on the eastern side, first charged, that they took from him land of his property; the Machados showed him that it (arose) from a diminuation of the possession they had before; but the judge, for the purpose of mediating, insisted several times in asking for the documents of A. Ygnacio Abila, and as he did not present any, the Alcalde, D. Manuel Domingues, ordered the measuration to be continued. The same occurred on the western side with the bordering land-owner, Don Franco Sepulveda, but besides that, he neither presented any document (he thinks.) The Machados were stripped of something like 600 varas, which remained in favor of Sepulveda, the latter himself designating his old boundaries.

That what he has said is the truth on his oath, without having any thing either to add or to leave out, which he affirmed and ratified, his declaration being read to him, subscribing with me and my assistants, according to law.

(Erasure of "poniente" is not valid.)

FELIPE LUGO,
FRANCIS S. ALVARADO.

Ass.: IGN. CORANEL,
Ass.: BACILIO VALDEZ.

Thereafter the citizen Policapio Higuera being personally present, and whom I attest that I know, was taken in oath in due legal form, on which oath he promised to tell the truth about what he might know and be interrogated about; and being put the general questions, he said, that his name is as above stated; that he is forty years of age; married; a Roman Apostolic Catholic; a field laborer; native and resident of this city and its limits.

Respecting the interrogations he answered:

To the 1st. That from the Paso de la Carretas, over the hill to the mouth of the estuary, that is to east, and southerly from the mouth of the estuary to the hollows, from the hollows to the first elm tree westerly and northerly from the elm tree, to the high hill.

To the 2nd. That it is about 19 years since he has seen the Machados to be in possession of the sitio called "Ballona," and he has always seen it covered with stock, buildings and farming.

To the 3rd. That as far as he knows the land as being bordering land-owners, towards the direction of Guicha, there was cut off some few varas to the east, and to the west there was cut off more than 500 varas; that what he has said is the truth on the oath he has taken, which he affirmed and ratified without having any thing either to add or to leave out; thus his declaration being read to him, and he did not sign it, as he did not know how. I did so with my assistance, according to law.

FELIPE LUGO.

Assis.: IGN. CORONEL,
BACILIO VALDEZ.

In continuation, the citizen Juan Ballona, being personally present, and whom I attest that I know, he was taken in oath according to law, on which oath he promised to tell the truth about what he might know and be questioned about; and being first put the general questions, he said, that his name is as above stated; that he is 56 years of age; married; a Roman Apostolic Catholic; field laborer; native of S. Barbara, and resident of this city; and *requesting* the interrogations, he answered:

To the 1st. That from El Paso de la Carreta to where the estuary empties, on the eastern side, and southerly from the same mouth of the estuary, along the shore to the hollows, westerly from the hollows up to where is an elm tree, and northerly from the first named elm tree, to El Paso de la Carreta.

To the 2nd. That it is now 19 years since he knows them to be in possession of the land called the Ballona, and has always been occupied with houses and country stock.

To the 3rd. That he is ignorant of the tenor of the question. This he said to be the truth on his oath, which he affirmed and ratified without having any thing either to add or to leave out. This his declaration being read to him, and he signed with me and my assistants, according to law.

FELIPE LUGO,
JUAN BALLONA.

Assis.: IG'N CORONEL,
FELIPE CATILLO.

Under the same date, and José Julian Baldes being personally present, and whom I attest that I know, he was taken in oath in due legal form, on which oath he promised to tell the truth about what he might know and be interrogated about, and being first put the general questions, he said that his name is as above stated; that he is thirty years of age; married; a Roman Apostolic Catholic; a field laborer; native and resident of this city; and respecting the interrogations, he answered:

To the 1st. That bordering on Mr. Policarpio Higuera, from el Paso de la Carreta, along the edge of Huacho to the mouth of the estuary, and southerly from the mouth of the hollows, westerly from the hollows to the elm trees, and northerly to the same Paso de las Carretas, over the hills.

To the 2nd. That so long ago as he can recollect, he has seen the land called la Ballona to be occupied by the Machados with habitations, corrals, and country stock.

To the 3rd. That he is ignorant of the tenor of the question.

This he said to be the truth on his oath, which he affirmed and ratified; this his declaration being read to him, and he did not sign, because he did not know how; I did so, together with my assistants, according to law.

FELIPE LUGO.

Assis.: IGNACIO CORONEL,
BACILIO VALDEZ.

ANGELES, *January 15th*, 1840.

The testimony consequent on the foregoing interrogatories being finished, and the respective action being taken, let it be returned on original to the interested parties, Machados and Talamantes, for such purposes as may suit them.

Thus did I, Felipe Lugo, 1st justice of the peace and of the 1st instance, order and sign, together with the attesting witness, according to law.

FELIPE LUGO.

Assis.: IGNACIO CORONEL,
FELIPE CASTILLO.

Filed in office, March 16, 1854.

GEO. FISHER, *Sec'y.*

Posecion del rancho nombrado "La Ballona"—Año de 1839.

H.H, No. 1.

Sello 1o, Seis Pesos.

Habilitado provisionalmente por la aduana maritima de Monterey, para los años de 1839 y '40.

ALVARADO. ANTONIO MA. OSIO.

Juan B. Alvarado, gobernador constitucional del departamiento de las Californias: Por cuanto los c'nos Agustin y Ignacio Machado, Felipe y Tomas Talamantes, han pretendido para sus beneficios personales, y el de sus familias, el terreno conocido con el nombre de la Ballona, colindante al O. con el S'or Policarpio Higuera, al N. con el S'or Alamis, al P. con el S'or Antonio Ignacio Abila, y al sur con el S'r Sepulvida, practicadas previamente las diligencias, y averiguaciones consernientes, segun lo despuesto por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en consederles el mencionado terreno bajo las condiciones siguientes:

1a. Que se sugeteran el arreglo que debe hacerse con respeto al senalimiento de terminos en los terrenos de la ciudad de Los Angeles por se resultare su comprendidos en ellas.

2a. Podran cercarlo sin perjudicar las travecias caminos, y servidumbres lo disfrutará libre, y esclusivamente destinandolo al uso ó cultivo que mas les acomodo.

3a. El juez respectivo hara medir el terreno conforme á ordenanza, y declara á los interesados su posecion de el.

4a. Si el terreno no fuere comprendido en las que insinna el articulo 1o, ocurreran los interesados al gob'o por la confirmacion de su propiedad. En consecuencia mando que se tome razon en el libro respectivo, y se entregue á los interesados para sus resguardos, y demas fines.

Dado en Monterey, á veinte y siete de Noviembre, de mil ochocientos treinta y nuebe.

JUAN B. ALVARADO,
MANUEL JIMENO.
S'crio del Despacho.

Queda tomada razon de este despacho en el libro respectivo de asci-entos sobre adjudicaciones de terrenos valdios, á f's 13. JIMENO.

El ex'mo s'or gobernador ha dispuesto que se tome razon de esta concesion en la prefectura del segunda distrito. JIMENO.

ANGELES, *Diciembre* 9, *de* 1839.

Queda tomada razon del presente titulo en el libro respectivo de esta prefectura, á f's 1a V'ta, en tal virtud los interesados ocurriran á uno de los so'res jueces de paz de esta ciudad, solicitando la posecion correspondiente.

TAPIA.
NARCISO BOTELLO, *S'crio.*

S'or Juez 2o de Paz int'o:

Agustin Ignacio Machado, Felipe y Tomas Talamantes, vecinos de esta demarcacion, anto V. en la mejor forma que haya lugar en d'ro,

dicimos, que adjuntamos respetuosamente el titulo de propiedad del llamado la Ballona, consedido por el superior gobierno de este departamiento, para que tenga á bien darnos la correspondiente posecion juridica con arreglo al titulo ó despacho que acompañamos. P. t., á. V. suplicamos se sirva acceder á esta nuestra solicitud en lo que se reciberá gracia. Juramos lo necesario, &c. Sirviendose admiter esta en papel comun por falta de sellado respectivo.

Angls., D'bre 30, de 1839.

Por no saber firmar rogamos lo hisiese por nosotros al ciudadano Franc'o S. Alvarado, à ruego de los interesados.

FRANC'O S. ALVARADO.

Angeles, Dec'r 30, de 1839.

Anuento al superior decreto de esta prefectura, y acedendo á la solicitud de los interesados procedase á dar la posecion respectiva, asi yo el juez que subscribe, decreto y firme, segun d'ro.

MANUEL DOMINGUEZ.

Ass'a: IGNACIO CARONEL,
Ass'a: AGUSTIN OLVERA.

En la ciudad de Los Angeles del departamento de las Californias, á treinta dias del mes de Diciembre, de mil ochocientos treinta, nueve, y anuento á la solicitud de los C. C. Agustin Ignacio Machado, Felipe y Tomas Talamantes, y decreto el S. prefecto interino de este distrito, su f'ha 9, del presente á fin de que se les de la correspondiente posecion á los nombrados Machados y Talamantes, del sitio y rancho nombrado la Ballona, que tienen actualmente ocupado con sus bienes de campo, y demas ampliaciones; concedio por el E. S. gobernador de este departamento, cujo titulo ó despacho original, han presentado á este juzgado, parese por mi, y testigos de asistencia, al espesado sitio y procedase á dar la posecion indicada previa citacion de colindantes arreglandose por ello al titulo referido que se lo ha conferido por el gobierno departamental, f'ha veinte y siete de Noviembre del presento año.

[correg'a mi.]

Yo, Manuel Dominguez, juez 2o inteo., mande y firme con los testigos de asistencia, segun dro., en el esto papel comun por falta del sellado respectivo, doy fée. MANUEL DOMINGUEZ.

As'a: IGNACIO CORONEL,
As'a: FRAN'CO SAVIR ALVARADO.

En el mismo dia, mes y año, yo, el juez que subscribe, pasé officio á D. Policarpio Higuera, á D. Antonio Ignacio Abila, á D. Francisco Sepulvida y á Don Maximo Alamis, como colindantes, manifestandole el objeto á ql. mi dirigia al punto de la Ballona, pues que iba á remidir y poner en posecion de el á los S'ores Agustin é Ignacio Machado, Felipe y Tomas Talamantes, lo que pongo por diligencia que autorisé y firmé, con los de asistencia, segun d'ro.

[correg'a mi.]

MANUEL DOMINGUEZ.

Ass'a: IGNACIO CORONEL,
Ass'a: FRAN'CO JAVIER ALVARADO.

En el mismo dia, mes, y año, estando al pie de un alamo que esta á larga distancia de la casa que havitan los S'ores Machados y Talamantes, nombré dos cordeleros, uno fue Marcelo Ridona y el otro Policarpio Higuera, á quienes hise saver su nombramiento que acceptaron bajo de juramento que otorgaron ofreciendo desempeñar fielmente su cargo, lo que autorizé y firmé con los testigos de mi asistencia, segun d'ro.

MANUEL DOMINGUEZ.

Asistencia: IGNACIO CORONEL,
FRAN'CO JAVIER ALVARADO.
Cordeleros: MARC'LO RIDONA.
El otro cord'lo no sabe escribir.

En el mismo dia, mes, y año, estando al pie ne sur alamo que esta á larga distancia de la casa que havitan los S. S. Machados y Telemantes, se comenzaron á verificar las remedidas y posecion correspondiente á los mencionados senores, del sitio nombrado la Ballona, previas todos los requisitos de ley, y estando auto mi testigos de asistencia, y lo oficiales cordeleros hise medir un cordel que contenia cien varas y haciendo á sus estremos unos sancos de madera, previa observacion y calculo con el titulo á la vista por mi disposicion se tiro el cordel desde el alamo al cual se le dieron unos machetores para que sirviese de mojonera, rumbo al esto se midieron, y contaron siete mil ochocientos treinta y cinco varas, terminando en un puntesillo de palo se fijo por mojoneras, en cuyo punto estaba el colindante Policarpio Higuera, el que no habiendo manifestado escepcion alguna se dio por medido para continuar. De alli se tiro el cordel rumbo al sur y se midieron, y contaron nueve mil ochocientos varas, las que remataron en la desembocadura del estero lugar donde se bijo por mojoneras mas cuando se medio reconocio el S'or Antonio Ignacio Abila, por perteneculo equel parage y haviendole pedido los documentos que provasen su propiedad no los presento, puis dijo estar el diseño Monterey, por cuya causa se dio por medio. En seguida tirando el cordel rumbo al oeste se midieron pa. la playas iete mil trescientos varas, que remataron en un lugar nombrado los barrancos parage que se puso por mojonera. De alli se tiro la cuerda rumbo al norte tomandola linea pa. cerrar en el alamo donde se comenzo y se midieron, siete mil ochocientos varas, siendo colindantes D. Francisco Sepulveda y D. Maximo Alanis, el primero aun que indicó que tenia pedido al gobierno un pedazo corto de aquel sitio, pero no presento constancia ni documento, se continuaron y se dio por medido lo que pongo por diligencia, ql. autorisé y firmé, con los testigos de mi asistencia, segun d'ro.

[correg'a mi.]

[correg'a mi.]

MANUEL DOMINGUEZ.

As'a: IGNACIO CORONEL,
As'a: FRAN'CO JAVIER ALVARADO.
Cordelero: MARCELO REDONA.
Policarpio Higuera no sabe firmar.

Desele testimonio á las partes de las presentes diligencias en este papel comun, por no haber del sellada respectivo, y pasen los interesados

al E. S. gobernador del departamento de la presente posecion, por estar este terreno sin embaraso pues asi lo previene el titulo ó despacho. Asi el juez 2a de paz interino, mandé y firmé, con los de mi asistencia, segun d'ro.

MANUEL DOMINGUEZ.

Asa.: IGNACIO CORONEL,
Asa.: FRANC'O JAVIER ALVARADO.

Concuerda con su original á que me refiero, la cual fielmente sacada, corregida y confrontada en cincos fojas de papel comun, por no haber del sellado respectivo, y existe en el libro de instrumentos publicos del año de 1838, en este testimonio de verdad. [correg'a mi.]

Angeles, Dic're 31, d. 1839.

MANUEL DOMINGUEZ.

Asa.: IGNACIO CORONEL,
Asa.: VICENTE SANCHEZ.

Copia.

Prefect'a Politica de Los Angeles:

Sin embargo de lo que en nota de 24 de Agosto, pp'o dije al respeto á que hiciere saber á los vecinos C. C. Isidro Reyes, Francisco Marquez, y Francisco Sepulvida, &c., no podar fabricar casa ni otros bienes raices en los terrenos que ocupan por considerarlos con el caracter de provicionales, por aclaracion que con f'ha 12 del actual ha hecho á esta prefect'a la secretaria del gobierno departamental, se debe entendro que la superior nota inserta en mi citada comprende unicamente á los referidos Reyes y Marquez y no á Sepulvida, Alanis, Machados, y Talamantes, á cuyos individuos se los hará ó saber para que este intelligenciados. Dios y L.

Angl's, Sep'bre 23, de 1840.

L. Arguello, s'r juez de 1a instancia de la ciudad de Los Angeles, certifico estan fielmente sacado de su original que existe en esto archivo, lo que autorisé y firmé, con los de asistencia, en la misma f'ha, doy feé.

FELIPE LUGO.

IGNACIO CORONEL, assa.,
MAN'L DOMINGUEZ, assa.

S'or Juez 1a de Paz:

Agustin y Ignacio Machado, Felipe y Tomas Telemantes, ante V. como mas haya lugar en d'ro, decimos, ql. conviniendo á nuestras intereses personales, ql. el gobierno superior aclare ciertas dudas sobre la posecion de nuestro rancho pedimos tenga á bien hacer comparacer en este juzgado de su cargo; al ciudadano Guillermo Cota al cual se le interrogará altenor sgt'e: 1a. Que diga en ql. año señor concedio el rancho llamado la Ballona, y quiero fue el juez. 2a. Que asta donde llegan sus terrenos, y se sabe hemos metido los bienes necesarios, segun la ordenanza. 3a. Que diga si cuando se nos concedio el Rancho de

la Ballona habia algun otro á su rededor. Practicadas estas diligencias devuelvese nos para los usos ql. ntro. d'ro convenga. Por tanto, á V. suplicamos haga como pedimos en lo ql. reciveremos gracia; jusamos, &c.

Serviendose admitir esta en papel comun, por no haber del sellado respectivo.

A ruego de los interesados.

PREFECTO HUGO REID.

ANGELES, *En'o* 16, *de* 1840.

Por presentado y admitido en cuanto ha lugar segun d'ro, citese á Don Guillermo Cota, juramento enforma tomese le declaracion conforme al interrogativo que antecede, asi yo el juez 1o. de paz de esta ciudad, la previamente y firmé con los de mi asistencia, segun d'ro.

FELIPE LUGO.

Ass'a: IGNACIO CORONEL,
Ass'a: BERNADINO LOPEZ.

En el acto siendo presente Don Guillermo Cota, en su persona, que doy fée, y conosco le recibi, juramento que hizo conforme á d'ro bajo lo cual ofricio decir verdad en lo que supiere y fuere preguntado, y siendole de las generales dijo, llamase como que da d'ho de setenta y dos años de edad, vindo, C. A. R., campistro, natural de Loreto en la bajo California, y vecino de esta ciudad, con respecto al interrogativo responde á la pregunta, á la 1a: Que por el año de diez y nueve a veinte, siendo el que declara sargento comisionado, venieron el S. Machado y Talamante, á pedir al que declara el parage de la Ballona; mas este les contestó no tener facultad para ello, contal motivo ocurrieron á Sta. Barbara, los interesados y le trajeron el esponente un oficio del S. Capitan Don José de la Guerra y Horiega, pa. que las diese posecion como proviscional; á la 2a: Q'l des de el Paso de la Carrera por el oriente, hasta la de sembocadura del estero y des de laboca del estero por la playa, hasta los barrancos, y por n'to des de los barrancos, hasta el primer alamo, hasta la loma que está en el Paso de la Carrera, y que vio tener bienes suficientes con que poblaron su rancho los Machados como igualmente, pusieron fuicas; á la 3a: Que en la epoca q'l se dio este sitio de la Ballona, no habia ninguno en sus cercanias de colindantes, esto dijo ser la verdad á cargo de su juramento, en que se a firmo, y ratifico y firmo conmigo habiendolo leido su declaracion.

GUILLERMO COTA,
FELIPE LUGO.

Ass'a: IGNACIO CORONEL,
Ass'a: AGUSTIN OLVERA.

En la f'ha. Practicada la cita devuelvase al interesado esta instancia, para los usos q'l convengan á su d'ro.

Asi yo el juez q'l subscribe mandé y firmé, con los de mi asistencia, segun d'ro.

Ass'a: IGNACIO CORONEL,
Ass'a: AGUSTIN OLVERA.

Filed in office, Nov. 11th, 1852.

GEO. FISHER, *Sec'y.*

"C."—*Translation of Petition of Judicial Possession.*

Señor Judge of the 2nd of the Instances:

Augustin Ignacio Machado, Felipe and Tomas Talamantes, neighbors of this demarcation, before your honor in all due form of law, say: That we respectfully enclose the title of property in the ranch called the Ballona, granted by the superior government, in order that you may be well disposed to give us the corresponding possession conformably with the title or despatch which accompanies.

Postscript. We supplicate that you may be pleased to accede to this our solicitude, in that it may be received with favor; we take the necessary oath, &c. Be pleased to admit this on common paper, for want of the proper sealed paper.

Angeles, December 30th, 1839.

Not knowing how to sign this, we request Francisco J. Alvarado to do it for us at the city, by request of the parties interested.

FRANCISCO J. ALVARADO.

Angeles, December 30th, 1839.

Conformably to the superior decree of this prefecturate, and acceding to the request of the parties interested, let it be proceeded to give the proper possession. Thus I, the judge who subscribes, decree and sign, according to law.

MANUEL DOMINGUEZ.

Ass'a: IGNACIO CORANEL,
AUGUSTIN OLIVERA.

Filed in office, Oct. 2d, 1852.

GEO. FISHER, *Sec'y.*

Translation of Act of Juridical Possession.

In the city of Los Angeles, of the Department of the Californias, at the thirty-first day of the month of December, of one thousand eight hundred and thirty-nine, condescending to the petition of the Sirs Agustin and Ignacio Machado, Felipe and Tomas Talamantes, and the decree of the prefect *ad interim* of this district, dated the 9th of the present, to the end that due possession be given them, the above named Machado and Talamantes, of the site and ranch called Ballona, which they have actually occupied with their chattels, of the plain and other amplications granted by his excellency, the governor of this department,

which title or original despatch they have presented to this court; let it be passed by me and my assistant witnesses to the site before mentioned, and let it be proceeded to give the possession indicated, previous citation haaving been made to the adjoining neighbors, for the purpose of regulating the title referred to, which has been conferred by the departmental government, dated the twenty-seventh of November, of the present year. I, Manuel Dominguez, justice of the peace of the 2nd instance, order and subscribe with the assisting witnesses according to law, on this common paper, for want of the proper sealed paper, which I attest.

MANUEL DOMINGUEZ,
IGNACIO CORONEL.

FRANCISCO J. ALVARADO, of assistance.

On the same day, month and year, I, the judge who subscribed, summoned the adjoining neighbors, Dn. Policapio Higuera, Dn. Agustin Ignacio Abila, Don Francisco Sepulveda and Dn. Maximo Alines, explaining to them the object for which I had directed myself to the place of the Ballona, to wit: to re-measure and put in its possession the Señ'rs Augustin and Ygnacio Machado, Felipe and Tomas Talamantes; which fact I put down for inspection, and which I authorize and sign with the assistance, according to law.

MANUEL DOMINGUES.

Assistance: IGNACIO CORONEL.
Ass.: Fran'co J. ALVARADO.

On the same day, month and year, being at the foot of a cottonwood tree, which is at a long distance from the house where dwell the Sirs Machado and Talamantes, I appointed two official cord-bearers; one was Marcelo Rodona, and the other Policarpio Higerra, to whom I caused to be made known their appointments, which they accepted under oath, which they agreed to, offering to discharge faithfully their trust, which I authorize and sign with the witnesses of my assistance, according to law.

MANUEL DOMINGUES.

IGNACIO CORONEL.
FRAN'CO JAMES ALVARADO.

Assistant cord-bearers, MANUEL RODENA.

The other cord-bearer knew not how to write.

On the same day, month and year, being at the foot of a cottonwood tree, at a long distance from the house where dwell the S'ors Machado and Talamantes, to verify to the aforenamed persons of the place referred to, the Ballona, all the prior requisites of the law were commenced; and being in presence of my witnesses of assistance, and the official cord-bearers, I caused the cord to be measured, which contained one hundred varas, fixing to its extremities stakes of wood; after observation and calculation, with an inspection of the title, by my order

the cord was established from the cottonwood tree, to which cuts of a hatchet were given to serve for a landmark, a direction to the east, were measured and counted seven thousand eight hundred and thirty-five varas, terminating at a little fall bridge, which was fixed for a landmark, at which point was the adjoining neighbor, Don Policarpio Higuera; he not having manifested any objection, it was given for a perpetual measurement. From thence the cord was stretched a direction towards the south, and were measured and counted nine thousand and eight varas, which terminated at the mouth of a creek, (estero,) a place which was fixed for a landmark, but when it was measured, Antonio Avila charged that this situation or place belonged to him, and having asked him for the documents which would prove it his property, he did not present them; but said the plot (desino) was in Monterey, for which cause it was fixed for a measurement; pursuing to stretch the cord towards the west, there were measured along the sea-coast seven thousand and three hundred varas, which terminated at a point called the deep gulleys ("barrancas,") a situation which was fixed for a landmark; from thence the rope was stretched in a direction towards the north, taking a course so as to strike the cottonwood tree, where the measuring was commenced, and there seven thousand and eight hundred varas; the adjoining neighbors being Sepulveda, Macimo Alimis, the former, although he indicated that he had asked the government for a small piece of this land, but as he did not present the memorial (canstancer) nor documents, these were continued, and the measurement was given, which for investigation diligencias, I set down, and which I authorize and sign with the witnesses of my assistance, according to law.

MANUEL DOMINGUES.

Assis.: IGNACIO CORANEL,
Assis.: FRANCISCO JAMES ALVARADO.

It agrees with the original to which I referred, which was faithfully taken, corrected and compared, on five leaves of common paper, for want of the proper sealed, and exists in the book of public instruments of the year of 1839, in evidence of the truth.

MANUEL DOMINGUES.

Angeles, Dec. 31st, 1839.

Assis.: IGNACIO CORANEL,
Assis.: VICENTE SANCHEZ.

Filed in office, Oct. 2d, 1852.

GEO. FISHER, *Sec'y.*

Translation of Doc. H.H, No. 3.

I, Felipe Lugo, 1st justice of the peace and of the 1st instance, in the city of Los Angeles and within its limits: I certify, in so far I am enabled and ought to do, and the law allows me, that there is recorded

in the book of public instruments for the year 1839, an original act of juridical possession, given by Don Manuel Domingues to Agustin and Ignacio Machado, and Felipe and Tomas Talamantes, and therein is shown that the mensuration was commenced easterly from el Paso de la Carreta to the mouth of the estuary; and from this southerly all the shore to the hollows; and from thence westerly to the first elm tree; and from this northerly to el Paso de las Carretas, to close.

In attestion whereof, and for the purposes—the purposes that may suit the interested parties—I give these presents on common paper, for want of stamped paper.

Angeles, January 21st, 1840. FELIPE LUGO.

Filed in office, March 16, 1854.

GEO. FISHER, *Sec'y.*

Opinion of Com'r Thompson Campbell.

AGUSTIN MACHADO AND YGNACIO MACHADO, FELIPE TALAMANTES AND TOMAS TALAMANTES, vs. THE UNITED STATES. } "Ballona."

The papers on file in this case show, that on the 27th day of November, A. D. 1839, Governor Alvarado granted to the said petitioners a tract of land called "Ballona;" and that on the 31st day of December, A. D. 1839, the said land was judicially measured, and judicial possession of the same was duly given.

There is no proof that any approval was ever made by the departmental assembly.

It is proved by the deposition of Abel Stearns that the claimants have occupied the land in question ever since the year 1832, and that they now occupy it. That they had two or three houses on the land; had stock of horses and cattle on it, and that a portion of it was under cultivation.

The evidence, in my judgment, shows a substantial compliance with the conditions of the law.

The juridical possession defines the boundaries with sufficient exactness to identify the land; besides, it is on proof that the land is entirely surrounded with other ranchos.

A decree of confirmation will be accordingly entered.

Filed in office, Feb'y 14th, 1854.

GEO. FISHER, *Sec'y.*

Decree of Confirmation.

AGUSTIN MACHADO, IGNACIO MACHADO, FELIPE TALAMANTES AND THOMAS TALAMANTES, vs. THE UNITED STATES. }

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim in this case is valid, and it is decreed that the same be confirmed.

The lands of which confirmation are hereby made are known by the name of "Ballona," and are bounded and described as follows, to wit: Commencing at a cottonwood tree, in which cuts with a hatchet were made, and running east seven thousand eight hundred and thirty-five varas to a little fall bridge; thence running south nine thousand and eight hundred varas to the mouth of a creek; thence along the sea-coast in a western direction seven thousand and three hundred varas to a point called the deep gulleys; thence north, in a direction to strike the said cottonwood tree, seven thousand eight hundred varas, to the place of beginning.

Reference for further description to be had to the original part filed in the case, and to the map, which forms a part of the traced copy of the expediente marked A, and which is also filed as evidence in this cause.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, Feb'y 14, 1854.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing sixty-three pages, numbered from 1 to 63, both inclusive, to contain a true, correct, and full transcript of the proceedings, and of the decision of said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 369, on the docket of the said board, wherein Agustin Machado et al. are the claimants against the United States, for the place known by the name of "Ballona."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, [SEAL.] California, this twenty-third day of September, A.D. 1854, and of the independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing sixty-three pages, numbered from 1 to 63, both inclusive, contain a full, true and correct copy of transcript in case No. 123, filed in my

office, wherein Augustin Machado et al. are appellees, and the United States are appellants, for "Ballona."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856. [SEAL.]

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y*.

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

AUGUSTIN MACHADO et al., appellees, ads. THE UNITED STATES, appellants. } Docket No. 123. Transcript No. 369.

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of California, the following proceedings were had, to wit: A duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Augustin Machado et al. are the claimants against the United States for the place named "Ballona," was received and filed, and docketed with No. 123, and is as follows, to wit:

(Vide page 1 of this Transcript.)

LOS ANGELES, *Feb'y 27th*, 1855.

In the same case, the notice of appeal from the decision of the commissioners was filed.

(Vide page 1.)

Upon which the following proceedings were had in their chronological order, to wit:

LOS ANGELES, *Nov'r 8th*, 1855.

Petition for review by P. Ord, U. S. dist. att'y, filed.

(Vide page 2.)

LOS ANGELES, *Nov. 30th*, 1855.

In same case, the answer of claimant filed.

(Vide page 5.)

LOS ANGELES, *Jan'y 15th*, 1856.

In the same case, the decree confirming the claim of appellees therein was filed.

(Vide page 6.)

LOS ANGELES, *March 7th*, 1856.

In same case, order of appeal to the Supreme Court of the United States granted and filed.

(Vide page 7.)

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES.

AGUSTIN MACHADO ET AL.
vs.
THE UNITED STATES. } 369.

You will please take notice, in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 13th day of September, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

Filed Feb'y 27th, 1855.

C. E. CARR, *Cl'k.*

Petition for Review.

CITY AND COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

In the District Court of the United States for the southern district of California.

AGUSTIN MACHADO et al., appellees, ads.
THE UNITED STATES, appellants. } Docket No. 123. Transcript No. 369.

To the Hon. Isaac S. K. Ogier Judge:

The petition of Pacificus Ord, a resident of said city, county and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 2nd day of October, A. D. 1852, Augustin and Ignacio Machado and Felipe and Tomas Talamantes presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called "Ballona," situate in the county of Los Angeles, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to; that thereafter, to wit, on or about the 14th day of February, A. D. 1854, the said commissioners confirmed by final decision the said claim of said petitioners; that thereafter, to wit, on or about the 8th day of November, A. D. 185 , a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, *was* filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 369, reference to which it is prayed may be had and made part of this petition.

That on or about the 13th day of September, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received

a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on or about the 27th day of February, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause, from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the land claimed as aforesaid is situated in the southern district of California, and within the jurisdiction of this honorable court.

Your petitioner further represents and insists, that the said claim is invalid, and the said decision of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of the proceedings and decisions of said commissioners in said cause, filed and appealed from as aforesaid.

And your petitioner denies all and singular, each and every allegation in the said petition of said claimants presented as aforesaid to said commissioners.

And your petitioner further denies, that the said claimants have any valid right or title to said land claimed as aforesaid or any part thereof. And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners; but the said claim should have been rejected by them. And the said claimant having no valid right or title derived from the Spanish or Mexican governments to the lands claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs, to the United States by virtue of conquest and the treaty of peace, friendship, limits, and settlements, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2nd, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or their attorneys may be served with a copy of this petition, and that this honorable court will review the said decision of said commissioners and reverse the same, and decide on the validity of the same, and decree the alleged title be invalid, with costs and general relief.

P. ORD,
Attorney of the United States for the southern district of California.

Filed, Nov. 8th, 1855. C. E. CARR, *Cl'k.*

Answer.

In the United States District Court for the southern district of California.—Los Angeles county.

AGUSTIN MACHADO ET ALS., appellees, ads. THE UNITED STATES, appellants. } Case No. 123. Transcript No. 369.

Lands called the "Ballona," Los Angeles county.

And now comes the above named appellees by W. G. Dryden, their attorney, and for answer to the petition of review, filed herein by the appellants, avers that their title to the lands claimed by them in this case, and described in the said petition of review, and in the transcript of the proceedings of the United States land commissioners, therein referred to, is good and valid.

Therefore, these appellees prays the judgment of this honorable court, that the decision of the board of United States land commissioners may be confirmed, and that the title of the appellees to the said lands may be decreed to be valid, and that they may be hence dismissed, with their costs herein expended; and such further or general relief as to equity and conscience belong, and their case may require.

W. G. DRYDEN,
Attorney for Appellees.

Filed, Nov. 30th, 1855.

C. E. CARR, *Cl'k.*

Decree.

United States District Court for the southern district of California. Dec. Term, 1855.

AGUSTIN MACHADO ET ALS., appellees, ads. THE UNITED STATES, appellants. } Case No. 123.

Place called "Ballona," Los Angeles county.

This cause coming on to be heard at a regular term of this court, on an appeal from the final decision of the United States board of land commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved 3d March, A. D. 1851, on a transcript of the decision and proceedings, and the papers and evidence on which such decision was founded; and it appearing to the court that said transcript has been duly filed, according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision be confirmed; and it is further ordered, adjudged and decreed, that the *the* claim of the appellees to a certain tract of land in Los Angeles county, west of the city of Los Angeles about three leagues, and bordering on the sea-shore, called the Ballona, is valid, said tract of land being the same now and for the last 18 or 19 years occupied by the appellees, and bounded as follows, viz:

Beginning at a cottonwood tree, at a considerable distance from the house of said rancho, which is marked with hatchet cuts; thence running east 7,835 varas to a little fall bridge; thence south 9,800 varas to the mouth of a creek, (estero;) thence west along the sea-coast 7,300 varas to the deep gulleys, (barancas;) thence northerly 7,800 varas to the place of beginning. Reference for a more particular description being had to the grant, map, and juridical possession on file in this case.

ISAAC S. K. OGIER,
U. S. Dis't Judge.

Filed, Jan'y 15th, 1856.

C. E. CARR, *Cl'k.*

Order of Appeal to Supreme Court U. S.

In the District Court of the United States for the southern district of California—Los Angeles.—December Term, 1855.

AUGUSTIN MACHADO ET AL., appellees, ads. THE UNITED STATES, appellants. } No. 123. Transcript No. 369.

On appeal from the United States L'd Com'r.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this court against the United States in the above entitled cause, rendered on or about the 19th day of December, A. D. 1855.

P. ORD, *Dis't Att'y.*

Filed, M'ch 7th, 1856.
(S'gd)

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing seven pages, numbered from 1 to 7, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said court; of the documentary evidence and of testimony of witnesses upon which the same was founded, on file in this office, in case No. 123 on the docket of the said court, wherein Augustin Machado et al. are appellees, and the United States are appellants, for "Ballona."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this 17th day of March, A. D. 1856. [SEAL.]

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

762

SUPREME COURT OF THE UNITED STATES.

No. 133.

THE UNITED STATES, APPELLANTS,

vs.

—— ANDRES & AL.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimants	3	1
Deposition of Abel Stearns	5	3
Deposition of Bacito Baldez	6	3
Grant	8	4
Translation of grant	9	4
Act of judicial possession	11	5
Translation of act of judicial possession	13	6
Opinion of commissioners	15	7
Decree of commissioners	20	9
Certificate of secretary	22	10
Certificate of clerk of district court	23	10
Proceedings in district court	24	11
Notice of appeal	26	11
Petition for review of U. S. attorney	27	12
Answer	30	13
Decree of district court	31	14
Appeal granted	32	14
Clerk's certificate	33	15

GIDEON, print.

Transcript of the proceedings in case No. 481—*Andres et al., Claimant*, vs. *The United States, Defendant—for the place named "Guajomé."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twelfth day of November, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Andres et al., for the place named "Guajomé," was presented and ordered to be filed and docketed with No. 481, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November* 13, 1852.

In case No. 481, Andres et al., for the place named "Guajomé," the deposition of Abel Stearns, a witness in behalf of claimants, taken before Commissioner Hiland Hall, with document marked H.H., Nos. 1 and 2, and translations thereof marked , annexed thereto, was filed.

(Vide page 5 of this Transcript.)

LOS ANGELES, *December* 13, 1852.

In the same case, the deposition of Basilio Valdez, a witness in behalf of the claimants, taken before Hiland Hall, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *Oct.* 14, 1853.

Case No. 481 was called, submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *February* 7, 1854.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board confirming the claim.

(Vide page 17 of this Transcript.)

To the honorable the United States Commissioners for ascertaining and settling private land claims in California.

Your petitioners, Andres, Solme and Catarina, residents of San Diego county, State of California, humbly represent:

That they claim to be joint owners in fee simple of the place called "Guajomé," in said county situate, containing one square league of land; said place was originally granted in fee jointly to the said Andres & José Manuel, by Pio Pico when governor of California, and as such vested with ample powers in the premises, by deed of concession, dated the 19th of July, A. D. 1845. The said José Manuel died about the year 1850, leaving no other heirs than his widow, Catarina, above named, and his mother, Solme, aforesaid.

The said grantees, for many years prior to said grant, occupied and cultivated said place, judicial possession of which was given said grantee August 4th, A. D. 1845, by the proper authority, and since that time the said Andres and José Manuel, or his legal representatives, have ever occupied and cultivated it. Said place is further described as follows: Being near the mission of San Luis Rey, in said county, and thus bounded, beginning at a point of the boundary line of the land of the Indian, Felipe, where is a landmark; thence northerly 5,000 varas to a high hill next to a lake, where there is a landmark; thence easterly to high hill where there is a landmark; thence southerly along said hill so as to include one league; thence westwardly 2,500 varas to a deep ravine, where a landmark is placed; thence to the place of beginning, containing, according to the act of judicial possession, one square league.

All the conditions of the said grant have been fulfilled. There is no interfering claim; it has not been surveyed by the U. S. surveyor general for California.

Your petitioners will rely, in support of their claim, upon the folfowing documentary evidence filed herewith.

1st. Copy of the original grant marked "A."

2nd. Copy of the act of judicial possession marked "B."

These papers are accompanied by the translations marked "C and D."

They will rely upon such other documentary and such oral testimony as may be thought necessary to establish their claim.

The said Solame and Catarina claim, in equal undivided parts, the one undivided half of said place.

Your petitioners pray, that your sense of justice and knowledge of law will confirm them in property and possession of their said claim, and as in duty bound, &c.

Angeles, November 9th, 1852.

SCOT & GRANGER,
Att'ys for Petitioners.

Filed in office, Nov. 12th, 1852.

GEO. FISHER, *Sec'y.*

Los Angeles, *November* 13, 1852.

On this day, Commissioner Hiland Hall, came Abel Stearns, a witness in behalf of the claimants, Andres et al., petition No. 481, and was duly sworn, his evidence being given in English.

The United States associate land agent was present.

In answer to questions by claimant's counsel the witness testified as follows:

My name is Abel Stearns, my age is fifty-four years, and I reside in Los Angeles.

A paper is now shown me purporting to be a grant to Andres and José Manuel, Indians, of San Luis Rey, dated 19th July, 1845. The signatures of Pio Pico and José Maria Covarubias on said paper, I believe to be genuine; I am acquainted with their signatures; said paper is hereto annexed and marked H.H, No. 1; another paper is shown me purporting to be a testimonial of judicial possession, dated 27th July, 1845.

The signatures of José R. Arguello and Juan Maria Marron on said papers, *on said papers* in those places, I believe to be genuine.

I am acquainted with their signatures; José R. Arguello was acting as alcalde at the time of said possession; said papers are hereto annexed, and marked H.H, No. 2.

ABEL STEARNS.

Sworn and subscribed before me.

HILAND HALL, *Comm.*

Filed in office, Nov. 13, 1852.

GEO. FISHER, *Sec'y.*

LOS ANGELES, *Nov. 17th*, 1852.

On this day, before Commissioner Hiland Hall, came Bacito Valdez, as witness in behalf of the claimants, Andres and José Manuel, petition No. 481, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants, the witness testified as follows:

My name is Bacito Baldez, my age is sixty years and over, and I reside in Los Angeles.

I know the place called Guajomé, near San Luis Rey; I know the Indians Andres and José Manuel; about eight years ago I was at the place and they were living on it; they had some work oxen, and some cows and horses, and mares, and had a house and lived in it; had a garden and fruit trees, and cultivated some of the land.

I have not been there since, but have understood that they continue to live there to the present time.

José Manuel I understand is dead; he left a widow named Solomi, who is living on the place; he left a sister called Catarina; I did not know him to have any children; Andres is living, as I understand.

In answer to questions by the associate law agent the witness says, he does not know how they became possessed of the land, but as they

were children of the mission, he supposed they asked for it and had it granted them.

BACITA VALDEZ.

Sworn and subscribed before me,

HILAND HALL, *Comm'r.*

Filed in office, Dec'r 13, 1852.

GEO. FISHER, *Sec'y.*

Pico Pico, Gobernador interino del Departamento de las Californias:

Por cuanto los indigenos de la mision de San Luis Rey, Andres y José Manuel, han pretendido para su beneficio y el de sus familias las tierras aguage del parage de Guyomé, que hace tiempo ocupan y cultivan, practicadas previamente las diligencias y averiguaciones consernientes, y en uso de las facultades que me son conferidas á nombre de la nacion Mejicana, en veindo en concederles las espreadas tierras y el munanti al que contiener declarandoles la propiedad de el las por las presentes letras y bajo las condiciones siguientes:

1o. Las tierras de que se les hace donacion sin de la estencion de media legua en cuadro. El juez que les posecione las hara medir y senalará los linderos, mandando poner suficientes mojoneras.

2o. Lo disfrutará libre y esclusivamente destinandolos al uso y cultivo que mas le acomode.

En consecuencia, mando que sirviendoles el presente de titulo, se tenga por firme y valedero, se tome razon de el en el libro respectivo, y se entregue á los interesados para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, en papel comun, por no haber del sellado, a diez y nueve de Julio, de mil ochocientos cuarenta y cinco.

PIO PICO,
JOSE MA. COVARRUBIAS.

Queda tomada razon en el respectivo libro de este superior despacho.

COVARRUBIAS.

Angeles, f'ha ut supra.

Filed in office, Nov. 13, 1852.

GEO. FISHER, *Sec'y.*

Pio Pico, Governor ad interim of the Department of the Californias:

Whereas, the natives of the mission of San Luis Rey, Andres and José Manuel, have petitioned, for their personal benefit and that of their families, for the lands and the spring of the place called Guyomé, which they have for some time occupied and cultivated; the proper investigations having been previously had, and in exercise of the powers conferred upon me, *me*, I have concluded, in name of the Mexican nation, to grant them the aforesaid lands and the spring which they contain, declaring them to be their property, by the present letters, and under the following conditions:

1st. The lands of which grant is made are of the extent of a half league square. The judge who shall give possession shall have them measured and designated as to their boundaries, ordering sufficient landmarks to be set up.

They may farm them freely and exclusively, devoting them to the use and culture which may best suit them.

Wherefore I order, that the present serving them for title, it be held firm and valid; that account be taken in the respective book, and be delivered to the parties interested for their protection and further ends.

Given in the city of Los Angeles, on common paper, for want of the sealed, the 19th day of July, 1845.

(Signed) PIO PICO.
JOSE MARIA COVARRUBIAS,
Secretary.

Account of the superior despatch remains, taken in the respective book. COVARRUBIAS.

Angeles, date as above.

Filed in office, Nov. 12th, 1852.

GEO. FISHER, *Sec'y.*

En el puerto de San Diego, á los vinte y sieto dias del mes de Julio, del año de mil ochocientos cuarenta y cinco, ante me, José R. Arguello, alcalde segundo constitucional, de esto referido punto y su demarcacion. En virtud de la solicitud verbal fecha, por los Indios Andres y José Manuel, de la miscion de San Luis Rey manifestandose, su espedido, por el sup'r gobierno de este departamento, con f'ha diez y nueve de Julio del presento año, solicitando: lo pusiere en posecion juridica del terreno de Guajomé, y en cumplimiento á la sup'r disposicion pase por mi, y testigos de assa., el parage, y pongase en segura posecion á dichos indigenos; asi yo el juez que subscribe, mandé, y firmé ambos con los de ass'a, segun d'ro.

JOSE R. ARGUELLO.

De ass'a: JUAN MA. MARRON,
De ass'a: FRANC'O R. ELISALDO.

Estando en el parage de Guajomé, á los cuatro dias del mes de Agosto del mismo año, y en cumplimiento por lo dispuesto, por el sup'r gobierno dispuese nombrar dos officiales cordeleros, que por no saber firmar se omiten sus nombres, á las que les tome el juramento respectivo, quienes ofrecieron desempeñar fielmente su encargo, lo que asiente por diligencia, que autorise y firmo con migo, y los de mi asistencia, segun d'ro.

JOSE R. ARGUELLO.

Ass'a: JUAN MA. MARRON,
Ass'a: FRANC'O R. ELISALDO.

En el mismo dia mes y año, estando en el parage de Guajomé, á efecto de verificar las medidas de posecion á los indigenos, Andres y

José Manuel, en vista del titulo ya espresado, previas todos las requisitas de estilo, y estando ante me, los testigos de ass'a, y cordeleros hise medir un cordel que tenia cien varas, y los estremos unos sancos de madera, previa observacion y calculo por mi disposicion, pasados en el lindero ultimo del Indio Felipe, que las serbia á ambos, se tiro el cordel rumbo al norte se medieron y contaron cinco, mil varas que remataron en una loma álta, punta de una laguna, donde se les mando a los interesados pusiesen su respectiva mojonera. En seguida se tiro el cordel rumbo al oriente para el completo de la legua, y espresada remataron en una cañada onda donde les mandé a los interesados que pusiesen en respectiva mohonera. En seguida se tiro el cordel rumbo al oriento, para el completo de la legua, y á espresada remataron en una lomita alta donde la mande, á las interesados pusiesen en mohonera. En seguida se tiro el cordel rumbo al poniente se medieron, y contaron dos mil quinientos varas, que remataron en una cañada onda donde les mande á los interesados que pusiesen sus respectivos mohoneras; á donde les impusé, que quedeban en seguro y pacifico posecion, para que lo disfrutaran libre y pancamento. Dandose por concluido el acto, que autorizo y firmo con los de ass'a, segun derecho.

JOSE R. ARGUELLO.

Ass'a: JUAN.MA. MARRON,
Ass'a: FRANC'O R. ELISALDO.

Filed in office, Nov. 13th, 1852.

GEO. FISHER, *Sec'y.*

"D."—Translation of Act of Judicial Possession.

In the prefecture of San Diego, the 27th day of the month of July, of the year 1845, before me, José R. Arguello, second constitutional alcalde of this point referred to, and its jurisdiction:

By virtue of the verbal, request made by the Indians, Andres and José Manuel, of the mission of San Luis Rey, exhibiting to me this title, issued by the superior government of this department, at date of the 19th July of the present year, soliciting that I should put them in judicial possession of the land of Guajomé, and in fulfilment of the superior order, proceed myself and assistant witnesses to the place, and put the said natives in secure possession.

Thus I, the judge that subscribes, ordered and subscribed with the assistance, according to law.

(Signed) JOSE R. ARGUELLO.

Ass't: JUAN MA. MARRON,
Ass't: FRANC'O X. ELISALDE.

Being in the place of Guajomé the 4th day of the month of August of the same year, and in fulfilment of the disposition made by the superior government, I proceeded to appoint two official cord-bearers, whose names are omitted because they could not write them, who took the proper oath, and agreed to discharge faithfully their trust, which I

set down for a proceeding, which I authorized and subscribed with my assistants, according to law.

(Signed) JOSE R. ARGUELLO.

Ass'g: JUAN MA. MARRON,
Ass'g: FRANC'O X. ELISALDE.

On the same day, month and year, being in the place of Guajomé, with the object of verifying the measurements of possession to the natives, Andres and Jose Manuel, in view of the title and order, all the legal requisites having been previously had, and my assistant witnesses and cord-bearers being in my presence, I caused a cord to be measured which contained one hundred varas, and wooden stakes attached to the ends; after previous observation and calculation for my direction, stopped at the last boundary line of the Indian Felipe, which served both parties; the cord was extended, course to the north; there were measured and counted, 5000 varas, which terminated at a high hill next to a lake, where the parties interested were ordered to set the proper landmark; thence the cord was extended, course to the east, to complete the leagues aforesaid, which terminated at a high hill, where I ordered the parties interested that they should set their landmark; thence the cord was extended, course to the west, and there were measured and counted, two thousand (2500) and five hundred varas, which terminated in a deep ravine, where I ordered the parties interested to set their proper landmark, and I instructed them that they remained in secure and peaceable possession, that they might farm it, freely and frankly, with which the act concluded; which I authorized and subscribed to with the assistants, according to law.

(Signed) JOSÉ R. ARGUELLO.

Asst.: JUAN MA. MARRON,
Asst.: FRAN'CO X. ELISALDE.

Filed in office, Nov'r 12th, 1852.

GEO. FISHER, *Sec'y.*

ANDRES, SOLME & CATARINA,
vs.
THE UNITED STATES.

"Guajomé," one-half square league.

The claimants in this case represent in their petition, that on the 19th of July, A. D. 1845, Governor Pio Pico granted to Andres, one of the petitioners in this case, jointly with one José Manuel, both neophyte Indians of the mission of San Luis Rey, the tract of land called "Guajomé," containing one square league.

It is further represented in said petition, that on the 4th day of August, A. D. 1845, judicial possession of said place was duly given by the proper officer.

The petitioners also represent and show, that the year 1850 one of the same grantees, José Manuel, died, leaving, as his only heirs, his wife, Catarina, and his mother, Solme.

In support of the foregoing allegations and averments, the said petitioners have placed on file the original grant made to Andres and José Manuel, accompanied with satisfactory proof of its genuineness.

They have also placed on file, properly proved and authenticated, the original record of judicial possession. They have proved, by the deposition of Abel Stearns, the death of José Manuel, and the heirship of Solme and Catarina, as alleged in this petition.

It is also proved by the same witness, that the original grantees had a house on said place in which they lived, had stock on it, and cultivated a portion of the land, all of which the witness saw about eight years previous to the time of taking his deposition, which was in the year 1852. This statement is corroborated by the grant, in which it is recited that the parties had before that time occupied and cultivated the land described in the grant.

There is no proof of any approval having been made by the departmental asssembly.

The parties have placed on file what purports to be a record of the judicial measurements of the premises in question; but the officer who made the measurement seems to have been sadly mistaken in the quantity of land he was authorized to measure by the terms used in the grant; instead of measuring half a league of land, he proceeds to measure an entire league, and his calls, lines and distances are so completely unintelligible, that it is impossible to trace the boundaries which he has attempted to establish. The grant calls for a half league in a square form.

The translation makes it read "a half league square;" this makes a material difference in the quantity granted; the latter would be only one quarter of a square league, while the former is one half. The great difficulty in this case is the identity of the land; the merits of the case are unquestionable.

That the officer had not power to measure more land than the grant, by virtue of which he acted, called for, is not an open question.

If the officer could, by act of judicial measurement, give to the party two leagues, when his grant only allowed him one, the officer would be *doubted* with the granting power, which I apprehend was never the design of the Mexican colonization law; yet the counsel for the petitioners seriously claim double the quantity of land called for in the grant which they have produced, and which is the foundation of their rights, whoever they are.

The judicial measurement, as made, may be useful for a single purpose; it establishes a point of beginning, and although this point is not very definite, it may be ascertained; the point where the judicial measurement referred to was commenced, is represented as being at the last boundary line of the Indian Felipe, which line, it seems, served both parties, that is, it was a dividing line between them.

As there was a house on the land at the time the grant was made, and as a portion of the land was cultivated, its precise location can be readily found; and the dividing line which serves as a boundary between the lands of the grantees and the land of Felipe, may be

ascertained with certainty, commencing at the point designated in the judicial survey, and running north a sufficient distance to make one side of a square the superficies of which will contain a half league of land, and from that point running in an eastern direction the same distance, then south, and then to the place of beginning; a square containing the precise quantity granted would be described.

The commission have not in this case *have not* departed from any rule which they have heretofore laid down, in regard to the question of boundary, and in regard to the necessity of a separation of the precise tract of land granted from the other public lands, either by a survey made by some competent authority, or by a description contained in that grant, by means of which the land granted is segregated and made ascertainable.

The juridical survey in the case before us, although intended to describe a much greater quantity than is called for in the grant, and for this reason fails to effect the object for which it was intended, establishes a point of beginning, and fixes the direction of the first and second lines with as much certainty as an actual measurement of the precise quantity granted could have done.

From this point then filed by a competent authority, a half league of land is directed to be surveyed and laid off, in the form of a square. The land contained within the limits of this square is the precise tract of land granted.

For these reasons we are of opinion that the claim in this case should be confirmed.

A decree will therefore be entered confirming to Andres the one undivided half of said half league of land, and to Solme and Catarina the other undivided one half of said tract, in conformity with the prayer of the petitioners.

Filed in office, Feb'y 7th, 1854.

GEO. FISHER, *Sec'y*.

Decree.

ANDRES, SOLME AND CATARINA,
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioners is valid, and it is therefore decreed that the same be confirmed.

The lands of which confirmation is hereby made are known by the name of "Guajomé," and are bounded and described as follows, to wit: commencing at the point known as the last boundary line of the Indian Felipe, and running north a sufficient distance to make one side of a square the superficies of which shall contain a half league of land, and from that point running in an eastern direction the same distance, thence south the same distance, thence to the place of beginning, containing in all one half a square league of land, in a square form.

The confirmation hereby to each of the said claimants is as follows, to wit:

To Andres the undivided half of said tract of land, and to Solme and Catarina the remaining undivided half as tenants in common.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, Feb'y 7th, 1854.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing twenty-three pages, numbered from 1 to 23, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 481 on the docket of the said board, wherein Andres et al. are the claimants against the United States, for the place known by the name of "Guajomé."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] California, this twenty-third day of September, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing 25 pages, numbered from 1 to 25, both inclusive, contain a full, true, and correct copy of transcript in case No. 145, filed in my office, wherein Andres et al. are appellees, and the United States are appellants, for "Guajomé."

In testimony whereof, I have hereunto set my hand and af- [SEAL.] fixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.
CLERK'S OFFICE, LOS ANGELES.

ANDRES ET AL., appellees, ads. THE UNITED STATES, appellants. } Docket No. 145. Transcript No. .

Be it remembered, that on the 8th day of November, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: A duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Andres et al. are the claimants against the United States, for the place named "Guajomé," was received and filed and docketed with No. 145, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Feb'y 27th*, 1855.

In same case, notice of appeal was filed.

(Vide page 1.)

LOS ANGELES, *Nov. 8th*, 1855.

In same case, petition for review filed.

(Vide page 2.)

LOS ANGELES, *Nov. 22d*, 1855.

In same case, the answer of claimant was filed.

(Vide page 5.)

LOS ANGELES, *Jan'y 10th*, 1856.

In same case, the following decree was entered:

(Vide page 6.)

LOS ANGELES, *M'ch 7th*, 1856.

In same case, order of appeal to Supreme Court filed.

(Vide page 7.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, *17th January*, 1855.

ANDRES ET AL. vs. THE UNITED STATES. } 481.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimants, and a transcript of the proceedings in which was received in this office on the 13th day of September,

1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

In the District Court of the United States for the southern district of California.

CITY AND COUNTY OF LOS ANGELES,
State of California.

ANDRES ET AL., app'lee, ads.
THE UNITED STATES, app'lt.
} Docket No. 145.—Transcript No. 481.

To the Hon'ble Isaac S. K. Ogier, Judge:

The petition of Pacificus Ord, a resident of said city, county and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 12th day of November, A. D. 1852, Andres, Solme and Catarina, presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, claiming a tract of land called Guajomé, situate in the county of San Diego, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit, on or about the 7th day of February, A. D. 1854, the said commissioners confirmed by final decision the said claim of said petitioners. That thereafter, to wit, on or about the 8th day of November, A. D. 1854, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 481, reference to which it is prayed may be had and made part of this petition. That on or about the 13th day of September, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on or about the 27th day of February, A. D. 1855, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause, from the said decision of the said commissioners in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the land claimed as aforesaid is situated in the southern district of California, and within the jurisdiction of this honorable court.

Your petitioner further represents and insists, that the claim is invalid, and the said decision of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of the proceedings and decision of said commissioners in said cause, filed and appealed from as aforesaid.

And your petitioner denies all and singular, each and every allegation in the said petition of said claimants presented as aforesaid to said commissioners.

And your petitioner further denies, that the said claimants have any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners; but the said claim should have been rejected by them. And the said claimant having no valid right or title derived from the Spanish or Mexican governments to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States by virtue of conquest and the treaty of peace, friendship, limits and settlement, between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3rd, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or their attorneys may be served with a copy of this petition, and that this honorable court will review the said decision of said commissioners and reverse the same, and decide on the validity of the same, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Attorney of the United States for the southern district of California.

Filed Nov. 8th, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court in and for the southern district of California.

ANDRES, SOLME & CATARINA, appellees, ads.
THE UNITED STATES, appellants.
} Case No. 145.—Transcript 481.—"Guajomé."

And now come the above-named appellees, Andres, Solme and Catarina, by their attorney, Jonathan R. Scott, and for answer to the petition for review filed in this cause by the appellants, say:

That their title to the lands in this case is good and valid.

Wherefore they pray the judgment of this honorable court that the decision of the United States board of land commissioners confirming the same may be affirmed, and their title to said lands may be decreed to be valid; and for costs of suit, and for such other or further and general relief as to equity and conscience belong and the nature of their case may require.

J. R. SCOTT,
Attorney for Appellees.

Filed, Nov. 22nd, 1855.

C. E. CARR, *Cl'k.*

In the United States District Court for the southern district of California.

ANDRES, SOLME & CATARINA, appellees, ads.
THE UNITED STATES, appellants.
} Case No. 145. "Guajomé."

This cause coming on to be heard on appeal from the final decision of the United States board of land commissioners to ascertain and *and* settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript has been duly filed, according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision of the said board be, and the same hereby is, affirmed; and it is further adjudged and decreed, that the claim of the above named appellees is good and valid, and the same is hereby confirmed to the extent mentioned in the grant, to wit, one-half of one square league, in a square form, commencing at the initial point of the act of judicial possession, shortening the measurements or distances therein given, so as to include the said quantity of one-half of one square league of land in a square form.

(Signed) ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed January 10th, 1856.

C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.—Los Angeles, December Term, 1855.

ANDRES et al., appellees, ads.
THE UNITED STATES, appellants.
} No. 145—(No. 481 of transcript.)

On appeal from the U. S. Land Commission.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court that an appeal be granted the United States to the Supreme Court of the United States,

770

from the judgment of this court against the said United States in the above entitled cause, rendered on or about the 17th day of December, A. D. 1855.

(Signed) P. ORD, *Dist. Att'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing 7 pages, numbered from 1 to 7, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said court, of the documentary evidence, and of testimony of witnesses, upon which the same was founded, on file in this office, in case No. 145 on the docket of the said court, wherein Andres et al. are appellees, and the United States are appellants, for "Guajomé."

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this 17th day of March, A. D. 1856.

[SEAL.]

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*